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Annual report of the International Tribunal for the Law of the Sea for 2004

Presented by the Tribunal

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I. Introduction

1. The present report of the International Tribunal for the Law of the Sea is submitted to the Meeting of States Parties under rule 6, paragraph 3 (d), of the Rules of Procedure for Meetings of States Parties and covers the period from 1 January to 31 December 2004.

2. The Tribunal was established by the 1982 United Nations Convention on the Law of the Sea (hereinafter "the Convention"). It functions in accordance with the relevant provisions of Part XV and Part XI of the Convention, the Statute of the Tribunal (hereinafter "the Statute"), as contained in annex VI to the Convention, and the Rules of the Tribunal (hereinafter "the Rules").

3. The Tribunal is composed of 21 members, elected by the States Parties to the Convention in the manner provided for by article 4 of the Statute.

4. As of 31 December 2004, the composition of the Tribunal was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President		
L. Dolliver M. Nelson	Grenada	30 September 2005
Vice-President		
Budislav Vukas	Croatia	30 September 2005
Judges		
Hugo Caminos	Argentina	30 September 2011
Vicente Marotta Rangel	Brazil	30 September 2008
Alexander Yankov	Bulgaria	30 September 2011
Soji Yamamoto	Japan	30 September 2005
Anatoly Lazarevich Kolodkin	Russian Federation	30 September 2008
Choon-Ho Park	Republic of Korea	30 September 2005
Paul Bamela Engo	Cameroon	30 September 2008
Thomas A. Mensah	Ghana	30 September 2005
P. Chandrasekhara Rao	India	30 September 2008
Joseph Akl	Lebanon	30 September 2008
David Anderson	United Kingdom of Great Britain and Northern Ireland	30 September 2005
Rüdiger Wolfrum	Germany	30 September 2008
Tullio Treves	Italy	30 September 2011

Order of precedence	*Country*	*Date of expiry of term of office*
Mohamed Mouldi Marsit	Tunisia	30 September 2005
Tafsir Malick Ndiaye	Senegal	30 September 2011
José Luis Jesus	Cape Verde	30 September 2008
Guangjian Xu	China	30 September 2011
Jean-Pierre Cot	France	30 September 2011
Anthony Amos Lucky	Trinidad and Tobago	30 September 2011

5. The Registrar is Philippe Gautier (Belgium) and the Deputy Registrar is Doo-young Kim (Republic of Korea).

II. Chambers

A. Seabed Disputes Chamber

6. In accordance with article 35, paragraph 1, of the Statute, the Seabed Disputes Chamber consists of 11 judges selected by the members of the Tribunal from among themselves. The members of the Chamber are selected triennially. The composition of the Chamber, in order of precedence, is as follows: Judge Marsit, President; Judges Caminos, Yankov, Park, Mensah, Chandrasekhara Rao, Anderson, Jesus, Xu, Cot and Lucky, members.

7. The term of office of the members of the Chamber expires on 30 September 2005.

B. Special chambers

1. Chamber of Summary Procedure

8. The Chamber of Summary Procedure is established in accordance with article 15, paragraph 3, of the Statute and consists of five members and two alternates. In accordance with article 28 of the Rules, the President and the Vice-President of the Tribunal are ex officio members of the Chamber, with the President of the Tribunal serving as President of the Chamber. The Chamber is constituted annually.

9. During the eighteenth session of the Tribunal, on 1 October 2004, the Chamber was constituted for the period from 1 October 2004 to 30 September 2005. The members of the Chamber, in order of precedence, are as follows: President Nelson; Vice-President Vukas; Judges Park, Treves and Ndiaye, members; Judges Anderson and Lucky, alternates.

2. Chamber for Fisheries Disputes

10. The Chamber for Fisheries Disputes, established in accordance with article 15, paragraph 1, of the Statute, consists of seven members. As decided by the Tribunal, the members of the Chamber are selected for a three-year term.

11. The composition of the Chamber for Fisheries Disputes, in order of precedence, is as follows: Judge Caminos, President; Judges Yamamoto, Kolodkin, Park, Wolfrum, Ndiaye and Jesus, members.

12. The term of office of the members of the Chamber expires on 30 September 2005.

3. Chamber for Marine Environment Disputes

13. The Chamber for Marine Environment Disputes, established in accordance with article 15, paragraph 1, of the Statute, consists of seven members. As decided by the Tribunal, the members of the Chamber are selected for a three-year term.

14. The composition of the Chamber, in order of precedence, is as follows: Judge Treves, President; Judges Marotta Rangel, Yankov, Bamela Engo, Akl, Anderson and Xu, members.

15. The term of office of the members of the Chamber expires on 30 September 2005.

4. Chamber under article 15, paragraph 2, of the Statute

16. Pursuant to article 15, paragraph 2, of the Statute, the Tribunal shall form a chamber for dealing with a particular dispute, if the parties so request. The composition of such a chamber is determined by the Tribunal with the approval of the parties in the manner provided for in article 30 of the Rules.

17. By Order dated 20 December 2000, the Tribunal formed a Special Chamber of five judges to deal with a dispute between Chile and the European Community concerning the conservation and sustainable exploitation of swordfish stocks in the South-Eastern Pacific Ocean.

18. The composition of the Special Chamber to deal with the case is as follows: Judge Chandrasekhara Rao, President; Judges Caminos, Yankov and Wolfrum and Judge ad hoc Orrego Vicuña, members.

III. Meetings of the Tribunal

19. During the period under review, the Tribunal met from 30 November to 18 December 2004 to deal with the *"Juno Trader" case*. The Tribunal held two sessions devoted essentially to legal matters having a bearing on the judicial work of the Tribunal and other organizational and administrative matters. The seventeenth session of the Tribunal was held from 22 March to 2 April 2004 and the eighteenth session from 20 September to 1 October 2004.

IV. Judicial work of the Tribunal

A. *Case concerning the Conservation and Sustainable Exploitation of Swordfish Stocks (Chile/European Community)*

20. Following an agreement between Chile and the European Community, the Tribunal, by Order dated 20 December 2000, formed a Special Chamber to deal with

a dispute between Chile and the European Community concerning the conservation and sustainable exploitation of swordfish stocks. By the same Order, the Tribunal fixed the time limits for the filing of preliminary objections and of the written pleadings.[1]

21. On 9 March 2001, the parties informed the President of the Special Chamber that they had reached a provisional arrangement concerning the dispute and requested that the proceedings before the Chamber be suspended. By Order of 15 March 2001, the President of the Special Chamber extended the time limit of 90 days for the making of preliminary objections, so that it would commence from 1 January 2004.

22. By letters dated 31 October 2003 and 11 November 2003, respectively, Chile and the European Community requested that the time limits for the proceedings before the Special Chamber continue to be suspended for a further period of two years and maintained their right to revive the proceedings at any time. Further to the request of the parties, the President of the Special Chamber extended the time limit for making preliminary objections until 1 January 2006, by Order dated 16 December 2003.

B. *The "Juno Trader" case (Saint Vincent and the Grenadines v. Guinea-Bissau), Prompt Release*

23. On 18 November 2004, an application under article 292 of the Convention was filed on behalf of Saint Vincent and the Grenadines against Guinea-Bissau for the release of the vessel *Juno Trader*, flying the flag of Saint Vincent and the Grenadines, and its crew. The application was entered in the List of cases as Case No. 13 and named the *"Juno Trader" case*.

24. By Order dated 19 November 2004, the President fixed 1 and 2 December 2004 as the dates for the hearing.

25. On 26 November, the agent of Guinea-Bissau requested a postponement of the hearing and, on 29 November 2004, the agent of Saint Vincent and the Grenadines transmitted his observations on the request for postponement.

26. The oral proceedings in the case were opened at a public sitting on 1 December 2004, at which the President read the Order of the Tribunal of the same date concerning the request of Guinea-Bissau for postponement. By that Order, the Tribunal postponed the continuation of the hearing to 6 December 2004 and extended the time limit for the filing of a statement by Guinea-Bissau to 2 December 2004. By the same Order, the filing of any additional documents was extended to 6 December 2004.

27. Prior to the opening of the hearing, the Tribunal held initial deliberations on 30 November and 1 December 2004.

28. Oral statements were made by representatives of the parties at four public sittings held on 6 and 7 December 2004.

29. On 18 December 2004, the Tribunal delivered its judgement in the case.

V. Communications from parties to cases concerning action taken pursuant to judgements and orders of the Tribunal

30. In 2004, the Tribunal received communications from parties on matters relating to compliance with judgements and orders with respect to the *Case concerning Land Reclamation by Singapore in and around the Straits of Johor*. By a joint communication dated 9 January 2004, Malaysia and Singapore submitted to the Tribunal the initial report referred to in article 95, paragraph 1, of the Rules, pursuant to paragraph 106 (3) of the Order of the Tribunal of 8 October 2003. By a joint communication from the parties dated 24 September 2004, the Tribunal received the interim report regarding works in Area D at Pulau Tekong referred to in paragraph 106 (1) (a) (ii) of the Order of the Tribunal dated 8 October 2003. By a joint communication of 8 October 2004, the parties informed the Tribunal that the group of experts established to conduct the study referred to in paragraph 106 (1) (a) (i) of the Tribunal's Order had requested an extension of the deadline for the completion of the study. The Tribunal received the final study of the group of experts by a joint communication from the parties dated 8 November 2004.

VI. Committees

31. During its eighteenth session, on 28 September 2004, the Tribunal reconstituted its committees for the period ending 30 September 2005.[2]

A. Committee on Budget and Finance

32. The members of the Committee on Budget and Finance selected on 28 September 2004 are as follows: Judge Akl, Chairman; Judges Yankov, Mensah, Anderson, Treves, Jesus, Cot and Lucky, members.

B. Committee on Rules and Judicial Practice

33. The members of the Committee on Rules and Judicial Practice selected on 28 September 2004 are as follows: President Nelson, Chairman; Vice-President Vukas; Judges Caminos, Marotta Rangel, Yankov, Yamamoto, Mensah, Chandrasekhara Rao, Akl, Anderson, Treves, Marsit (ex officio) and Ndiaye, members.

C. Committee on Staff and Administration

34. The members of the Committee on Staff and Administration selected on 28 September 2004 are as follows: Judge Wolfrum, Chairman; Judges Caminos, Kolodkin, Bamela Engo, Mensah, Marsit, Xu and Cot, members.

D. Committee on Library and Publications

35. The members of the Committee on Library and Publications selected on 28 September 2004 are as follows: Judge Anderson, Chairman; Vice-President

Vukas; Judges Caminos, Marotta Rangel, Kolodkin, Park, Chandrasekhara Rao, Wolfrum, Treves and Ndiaye, members.

E. Committee on Buildings and Electronic Systems

36. The members of the Committee on Buildings and Electronic Systems selected on 28 September 2004 are as follows: Judge Jesus, Chairman; Judges Yankov, Akl, Anderson, Wolfrum and Lucky, members.

VII. Rules of the Tribunal and supplementary documents

37. During its seventeenth and eighteenth sessions, the Tribunal dealt with legal and judicial matters, including a review of the Rules and judicial procedures of the Tribunal. The review was undertaken both in the Committee on Rules and Judicial Practice and in the plenary. In considering such legal and judicial matters, the Tribunal followed closely the developments of the rules of procedure of the International Court of Justice and other international courts or tribunals. Some of the main issues that were considered are addressed below.

A. Procedure for revision or interpretation of a judgement or order

38. During the seventeenth and eighteenth sessions, the Committee on Rules and Judicial Practice discussed, on the basis of background papers prepared by the Registry, the issue of the procedure to be adopted by the Tribunal in the case of a request for revision or interpretation of a judgement or order made with respect to urgent proceedings before the Tribunal. On the recommendation of the Committee, the Tribunal noted, at its eighteenth session, that the Rules were sufficient and flexible enough to deal with any such requests.

B. Code of conduct

39. During the seventeenth session of the Tribunal, the plenary of the Tribunal and the Committee on Rules and Judicial Practice discussed, on the basis of a document prepared by the Registry, the question of a code of conduct for counsel appearing before the Tribunal.

40. At the eighteenth session, the matter was referred to the Seabed Disputes Chamber. At the same session, the Tribunal decided to keep the issue under review.

C. Amicus curiae before international courts

41. During the seventeenth and eighteenth sessions, the plenary of the Tribunal and the Committee on Rules and Judicial Practice discussed the matter on the basis of background papers presented by the Registry. The Tribunal decided that it was premature to develop guidelines on the matter and that this view could be reassessed in the future in the light of the Tribunal's practice.

D. Contributions towards the expenses of the Tribunal

42. During the seventeenth and eighteenth sessions, the Committee on Rules and Judicial Practice examined, on the basis of background papers prepared by the Registry, the question of expenses relating to cases brought by an entity other than a State Party or the International Seabed Authority.

43. At its eighteenth session, the Tribunal decided to continue consideration of the item at its next session.

E. Bonds and other financial security

44. During the seventeenth and eighteenth sessions, the Committee on Rules and Judicial Practice gave consideration to a document presented by the Registry containing information on the practice in different States concerning the amount of bonds posted for breaches of laws and regulations applicable to maritime areas under national jurisdiction.

45. The Tribunal, at its eighteenth session, requested the Registry to update, on a regular basis, the information presented in the said document.

F. Rules regarding evidence

46. During the seventeenth and eighteenth sessions, the plenary of the Tribunal and the Committee on Rules and Judicial Practice examined the provisions in the Rules regarding evidence before the Tribunal including, in particular, the Tribunal's practice regarding documents submitted after the closure of the written proceedings, witness and expert testimony, and the Tribunal's function in obtaining evidence.

47. At its eighteenth session, the Tribunal decided to continue consideration of the matter at its next session.

G. Implementation of the decisions of the Tribunal

48. During the eighteenth session, the plenary of the Tribunal and the Committee on Rules and Judicial Practice examined, on the basis of a document presented by the Registry, the issue of implementation of the decisions of the Tribunal. The Tribunal took note of the information contained in the document.

H. List of cases

49. During the seventeenth session, the Committee on Rules and Judicial Practice continued consideration of proposals made by the Registry concerning a format for the List of cases pursuant to article 36, paragraph 1 (b), of the Rules. The form under which the List of cases has to be kept was the subject of a decision taken by the Tribunal at its seventeenth session.

I. Editorial corrections to the Rules

50. At its seventeenth session, the Tribunal adopted editorial corrections to the Rules of the Tribunal.

J. Matters relating to the Seabed Disputes Chamber

51. At the eighteenth session, the members of the Seabed Disputes Chamber exchanged views on developments regarding the work of the International Seabed Authority and the question of a code of conduct for counsel appearing before the Chamber.

VIII. Privileges and immunities

A. General Agreement

52. The Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea, adopted by the seventh Meeting of States Parties on 23 May 1997, was deposited with the Secretary-General of the United Nations and opened for signature at United Nations Headquarters for 24 months, as from 1 July 1997.[3] The Agreement entered into force on 30 December 2001, 30 days after the date of deposit of the tenth instrument of ratification or accession. At the closing date for signature, 21 States had signed the Agreement. As of 31 December 2004, 15 States had ratified it or acceded to it.

B. Headquarters Agreement

53. During the period under review, negotiations with the German authorities on the Headquarters Agreement between the Tribunal and the Government of the Federal Republic of Germany came to a successful conclusion. On 14 December 2004, President Dolliver Nelson and the State Secretary of the Foreign Office, Jürgen Chrobog, signed the Agreement between the International Tribunal for the Law of the Sea and the Federal Republic of Germany regarding the Headquarters of the Tribunal.

54. On the occasion of the signature of the Agreement, the President expressed his gratitude to the Government of the Federal Republic of Germany for the excellent cooperation extended to the Tribunal in the matter. Prior to the ceremony, the President met with the Federal Minister of Justice, Brigitte Zypries, and the Members of Parliament, Rainer Funke and Dr. Christoph Zöpel.

55. The Headquarters Agreement defines the legal status of the Tribunal in Germany and regulates the relations between the Tribunal and the host country. It contains provisions on matters such as the law applicable to the headquarters district, the immunity of the Tribunal, its property, assets and funds, and the privileges, immunities and exemptions to be accorded to the Members of the Tribunal and its officials, as well as to agents representing parties, counsel and advocates and witnesses and experts who are required to appear before the Tribunal.

56. The Agreement will enter into force on the first day of the month following the date of receipt of the last of the notifications by which the Tribunal and the Federal Republic of Germany have informed each other of the completion of their respective formal requirements for the entry into force of the Agreement. Pending the entry into force of the Agreement, the relations with the host country are governed by an interim ordinance adopted by the host country in 1996, which applies, mutatis mutandis, the relevant provisions of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947.[4]

IX. Relations with the United Nations

A. Observer status in the General Assembly

57. At the fifty-sixth plenary meeting of the fifty-ninth session of the General Assembly, on 17 November 2004, President Nelson delivered a statement under agenda item 49 (a), entitled "Oceans and the law of the sea".[5]

B. Relationship Agreement with the United Nations

58. The Registrar reported to the Tribunal, at its seventeenth and eighteenth sessions, on developments regarding the implementation of the Agreement on Cooperation and Relationship between the United Nations and the International Tribunal for the Law of the Sea.

X. Relations with other organizations and bodies

59. During the period under review, administrative arrangements on cooperation were concluded between the Registry of the Tribunal and the following organizations or bodies: the International Labour Office and the secretariat of the Asian-African Legal Consultative Organization.

XI. Premises of the Tribunal

60. The terms and conditions under which the premises are made available by the Federal Republic of Germany to the Tribunal were established in the Agreement of 18 October 2000 between the International Tribunal for the Law of the Sea and the Government of the Federal Republic of Germany on the Occupancy and Use of the Premises of the International Tribunal for the Law of the Sea in the Free and Hanseatic City of Hamburg.

61. A meeting between the Registry and the competent German authorities took place on 24 November 2004 to discuss issues regarding the premises of the Tribunal.

62. On the occasion of the signature of the Headquarters Agreement between the Tribunal and the host country on 14 December 2004, technical corrections were made to the text of the Agreement of 18 October 2000 by an exchange of letters,

dated 14 December 2004, signed by the Registrar and the Legal Adviser and Director-General for Legal Affairs of the Ministry of Foreign Affairs, respectively.

XII. Finances

A. Budget

1. Budget for 2005-2006

63. The budget proposals for 2005-2006, approved by the Tribunal at its seventeenth session, were submitted to the fourteenth Meeting of States Parties. The proposals, involving an amount of 15,506,500 euros were based on an evolutionary approach and guided by the principle of zero growth. In accordance with the Financial Regulations of the Tribunal, which came into force on 1 January 2004, budget proposals were prepared, for the first time, in euros and covered a two-year period.

64. The Meeting of States Parties approved the budget in the amount of 15,506,500 euros, as proposed by the Tribunal. The approved budget provided for recurrent expenditure of 13,263,300 euros, including 3,462,300 euros for the remuneration, travel and pensions of the judges and 6,632,700 euros for salaries and related costs of staff, and non-recurrent expenditure of 150,000 euros. The Meeting of States Parties also approved 2,093,200 euros under the part of the budget entitled "Case-related costs", to be used in the event of cases being submitted to the Tribunal. No appropriations were made to the Working Capital Fund.[6]

2. Reimbursement of national taxes

65. Following the proposal of the Tribunal concerning reimbursement of national taxes, the fourteenth Meeting of States Parties approved the inclusion, in the budget of the Tribunal, of budget lines to reimburse members and officials of the Tribunal for national taxes levied on their remuneration paid by the Tribunal pending the outcome of negotiations on the conclusion of a bilateral tax reimbursement agreement.[7]

3. Budgetary matters for 2004

66. Following the proposal of the Tribunal, the fourteenth Meeting of States Parties authorized the Tribunal, with regard to the budget for 2004, to finance over-expenditures with respect to certain budget lines by transfers between appropriation sections as far as possible and, if necessary, by using savings from the financial period 2002 up to US$ 500,000. The Registrar was requested to report on any action taken in this regard to the fifteenth Meeting of States Parties.[8]

4. Report on budget performance

67. At its seventeenth session, the Tribunal considered the report presented by the Registrar concerning the budget performance for 2003.

B. Status of contributions

68. As of 31 December 2004, 70 States parties had made contributions to the 2004 budget totalling $3,974,240, while 76 States parties had not made any payments with respect to their assessed contributions for 2004. The balance of unpaid contributions with respect to the 2004 budget was $1,150,840.

69. Furthermore, assessed contributions amounting to $1,430,310 in respect of the 1996-1997, 1998, 1999, 2000, 2001, 2002 and 2003 budgets were still pending as of 31 December 2004.

70. The balance of unpaid contributions with respect to the overall budget of the Tribunal amounted to $2,581,150. The Registrar sent to the States parties concerned notes verbales dated 20 December 2004, reminding them of their outstanding contributions to the budgets of the Tribunal.

C. Financial Regulations and Rules

71. The Financial Regulations of the Tribunal, which were adopted by the thirteenth Meeting of States Parties on 12 June 2003, became effective on 1 January 2004. The Financial Regulations apply to the financial period 2005-2006 and to subsequent financial periods.[9]

72. Following the proposal of the Tribunal and further to consultations with the Division for Ocean Affairs and the Law of the Sea of the United Nations, the President of the fourteenth Meeting of States Parties informed the Meeting of States Parties of technical amendments concerning regulations 6.2 and 1.2 (French text only) of the Financial Regulations and requested the secretariat to make the changes accordingly.

73. Pursuant to financial regulation 10.1 (a), the Registrar should establish detailed financial rules and procedures in order to ensure effective financial administration and the exercise of economy. In accordance with this provision, the Tribunal, at its seventeenth session, approved the Financial Rules which had been prepared by the Registrar and reviewed by the Committee on Budget and Finance. The Financial Rules were submitted to the fourteenth Meeting of States Parties for its consideration. The Meeting took note of the Financial Rules of the Tribunal which, according to rule 114.1, shall become effective on 1 January 2005.[10]

74. Pending the entry into force of the Financial Rules of the Tribunal, the Financial Regulations and Rules of the United Nations were applied mutatis mutandis.

D. Reports of the auditor for 2002 and 2003

75. In accordance with the Financial Regulations of the United Nations, which were applicable mutatis mutandis to the Tribunal, arrangements were made for the accounts of the Tribunal to be audited by an internationally recognized auditing firm.

76. The audit report for 2002 was submitted by the Tribunal to the fourteenth Meeting of States Parties. The Meeting considered and took note with appreciation of the report.

77. The audit report for the financial year 2003 was presented by the Registrar at the eighteenth session of the Tribunal. The auditor, having reviewed the transactions and operations over that period, was satisfied that the annual financial statements gave a true and fair view of the net assets, financial position and results of operations of the Tribunal in accordance with principles of proper accounting and with the Financial Regulations of the United Nations, which were applied mutatis mutandis. The Tribunal took note of the audit report for 2003 and requested that the report be submitted to the fifteenth Meeting of States Parties.

E. Appointment of the auditor for 2004

78. Following the proposal of the Tribunal, the fourteenth Meeting of States Parties authorized the Tribunal to appoint an auditor to examine the financial statements of the Tribunal for the financial year 2004, pending the appointment of the auditor by the Meeting for the financial period 2005-2006 and subsequent periods. Accordingly, quotations were obtained from different internationally recognized firms of auditors and submitted to the Committee on Budget and Finance for its consideration at the Tribunal's eighteenth session. On the basis of the recommendation of the Committee, the Tribunal, at the same session, authorized the appointment of a new auditor for the financial year 2004.

F. Exchange rate fluctuation

79. The fourteenth Meeting of States Parties requested the Registrar to make proposals for the consideration of the fifteenth Meeting with respect to an appropriate mechanism for addressing the effects of fluctuation in the exchange rate on the remuneration of the members of the Tribunal.[11]

80. During the eighteenth session of the Tribunal, the Committee on Budget and Finance gave consideration to the matter on the basis of proposals presented by the Registry. On the recommendation of the Committee, the Tribunal, at the same session, approved the proposal that the floor/ceiling mechanism in force at the International Court of Justice should apply to regulate the remuneration of the members of the Tribunal with effect from 1 July 2005. The Tribunal requested that this proposal be submitted to the fifteenth Meeting of States Parties for its consideration.

G. Liability of the Tribunal

81. The Tribunal, at its seventeenth session, reviewed the arrangements relating to the insurance policy covering the Tribunal's liability in the event of the death, injury or illness of members of the Tribunal attributable to service with the Tribunal.

H. Trust funds and donations

82. On 30 October 2000, the General Assembly, in resolution 55/7 entitled "Oceans and the law of the sea", requested the Secretary-General to establish and administer a voluntary trust fund to assist States in the settlement of disputes by the Tribunal. The trust fund was thereafter established and is operational.

83. According to information provided by the Division for Ocean Affairs and the Law of the Sea of the United Nations, contributions to the trust fund were made by the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Finland and financial statements of the trust fund showed as of 31 December 2003 a balance of $69,153.90. No contribution was made to the fund in 2004. A request for the use of the fund was received by the Division for Ocean Affairs and the Law of the Sea in 2004.

84. In 2004, the Korea International Cooperation Agency provided a grant for funding the participation of interns from developing countries in the internship programme of the Tribunal. A trust fund has been established by the Registrar for this purpose pursuant to regulation 6.5 of the Financial Regulations of the Tribunal.

XIII. Administrative matters

A. Staff Regulations and Rules

85. During the seventeenth session, the Registrar reported to the Tribunal on amendments to the Staff Rules concerning pensionable remuneration for staff in the Professional and higher categories, and salary scale for staff in the General Service category, as required to ensure compatibility with the United Nations practice. The Tribunal took note of those amendments.

86. At the eighteenth session, the Tribunal took note of the decision taken by the Registrar to provide to staff members of the Registry a new scheme of social security and to join, as of 1 January 2005, the United Nations health insurance scheme.

B. Staff recruitment

87. The Tribunal continued the recruitment process for both Professional and General Service staff. At the end of 2004, the status of the recruitment process was as follows:

(a) Recruitment completed for the posts of translator at the P-3 level, assistant legal officer at the P-2 level and archivist at the P-2 level;

(b) Recruitment completed for two General Service posts.

A list of the staff members of the Tribunal as at 31 December 2004 is contained in annex II to present report.

88. Temporary personnel were recruited to assist the Tribunal in connection with the "*Juno Trader*" *case* and during its seventeenth and eighteenth sessions.

C. Balance between official languages of the Tribunal

89. The Registrar reported to the Tribunal at its seventeenth session on steps taken to ensure a balance between the two official languages of the Tribunal. English and French courses for staff members were held at the Tribunal in 2004. German classes for staff members were organized at the Tribunal until September 2004. The German classes took place outside working hours and the reimbursement of the cost of the classes was restricted to 50 per cent.

D. Internship programme

90. An internship programme of the Tribunal was established in 1997. During 2004, 21 persons served periods of internship at the Tribunal. A list of the persons who participated in the internship programme during 2004 is contained in annex III to the present report.

91. At its seventeenth session, the Tribunal expressed its gratitude to the Korea International Cooperation Agency for its generous endowment which established the KOICA Grant. The KOICA Grant assists candidates from developing countries in covering the costs incurred in participating in the Tribunal's internship programme.

92. An information sheet and the application form for the programme can be obtained from the Registry or from the Tribunal's websites: http://www.itlos.org or http://www.tidm.org.

XIV. Visit by Head of State

93. Horst Köhler, President of the Federal Republic of Germany, visited the Tribunal on 1 September 2004. He was accompanied by approximately 140 members of the diplomatic corps accredited in Germany. Horst Köhler exchanged views with some judges on the work of the Tribunal. The President of the Tribunal made a statement on the work of the Tribunal on that occasion. The text of the statement is available on the website of the Tribunal: http://www.itlos.org or http://www.tidm.org.

XV. Buildings and electronic systems

A. Requirements for the permanent premises

94. During the seventeenth and eighteenth sessions of the Tribunal, the Registrar presented reports to the Tribunal on requirements for the permanent premises, including buildings arrangements, electronic systems and courtroom technology, which were reviewed by the Committee on Buildings and Electronic Systems.

B. Use of the premises and public access

95. The following events were organized on the premises of the Tribunal during 2004:

(a) Seminar: "Maritime safety — current problems of use of the Baltic Sea", 22 and 23 April 2004, organized by the Governments of the Free and Hanseatic City of Hamburg, Schleswig-Holstein and Mecklenburg-Western Pomerania;

(b) Seminar: "Nord- und Ostsee: Nutzung v. Umweltschutz", 8 and 9 July 2004, for students at the Law of the Sea and Maritime Law Institute of the University of Hamburg, organized in conjunction with the International Foundation for the Law of the Sea;

(c) Symposium: "Maritime delimitation", 25 and 26 September 2004, organized by the International Foundation for the Law of the Sea, the Association internationale du droit de la mer, the Law of the Sea and Maritime Law Institute of the University of Hamburg, the Bucerius Law School, the Institut du droit économique de la mer (Monaco) and the Bundesamt für Seeschifffahrt und Hydrographie;

(d) Meeting of the Executive Committee of the Comité Maritime International on 6 November 2004.

96. In addition, the premises of the Tribunal were visited by approximately 2,100 people during organized tours in 2004.

XVI. Library facilities

97. During the seventeenth and eighteenth sessions, the Registrar reported on several matters pertaining to the Library, including the integrated library system, the library catalogue, online databases and the need for increased library space. At its seventeenth session, the Tribunal requested the Registrar to keep the question of expansion of the library under review and to seek suitable sources of funding.

98. A list of donors to the Library is contained in annex I to the present report.

XVII. Publications

99. The status of the Tribunal's publications was reviewed by the Committee on Library and Publications during the seventeenth and eighteenth sessions of the Tribunal.

100. During the period under review, the following volumes were published:

(a) *ITLOS Yearbook 2002, TIDM Annuaire 2002, ITLOS Yearbook 2003, TIDM Annuaire 2003*;

(b) *ITLOS Reports of Judgements, Advisory Opinions and Orders 2002, ITLOS Reports of Judgements, Advisory Opinions and Orders 2003*;

(c) *ITLOS Pleadings, Minutes and Documents 1999, vol. 4*.

XVIII. Public information and website

101. The Tribunal publicized its work by means of its website, press releases and briefings by the Registry and by distribution of its judgements, orders and publications.

102. The website can be accessed at the following addresses: http://www.itlos.org or http://www.tidm.org. The texts of the judgements, orders and verbatim records of hearings of the Tribunal are available on the website, together with other information about the Tribunal.

103. In 2004, judges and staff members of the Registry also delivered lectures and published papers on the work of the Tribunal.

XIX. Future work

104. The Tribunal decided to hold its nineteenth session from 7 to 18 March 2005 to deal with legal matters having a bearing on the judicial work of the Tribunal and other organizational and administrative matters. It further decided that the tentative dates for the twentieth session would be 26 September to 7 October 2005.

Notes

[1] For the composition of the Special Chamber, see para. 18.

[2] For the terms of reference of the committees, see SPLOS/27, paras. 37-40, and SPLOS/50, paras. 36-37.

[3] SPLOS/24, para. 27.

[4] German Ordinance on the Privileges and Immunities of the International Tribunal for the Law of the Sea of 10 October 1996.

[5] The text of the statement is available on the Tribunal's websites at http://www.itlos.org or http://www.tidm.org.

[6] SPLOS/119, para. 33 and SPLOS/117.

[7] SPLOS/119, paras. 50-54, and SPLOS/116.

[8] SPLOS/119, para. 37 and SPLOS/118.

[9] Financial Regulation 14.1.

[10] SPLOS/119, para. 46; the Financial Regulations and Rules of the Tribunal are contained in document SPLOS/2004/WP.2.

[11] SPLOS/119, para. 35.

Annex I

List of donors to the Library of the International Tribunal for the Law of the Sea, 2004

Asociación Argentina de Derecho Internacional, Córdoba, Argentina

Association française pour les Nations Unies, Section Aix-en-Provence, Aix-en-Provence, France

Asmus Bergemann, Trittau, Germany

Bundesforschungsanstalt für Fischerei, Hamburg, Germany

Comité Maritime International, Antwerp, Belgium

Division for Ocean Affairs and the Law of the Sea, United Nations, New York, United States of America

Mohammed Elkesh, Faculté de droit, Université d'Ain Shams, Cairo

European Commission, Directorate-General for Fisheries, Brussels, Belgium

European Court of Human Rights, Strasbourg, France

Ambassador Roberto Flores Bermúdez, Embassy of Honduras, Berlin

Silvina S. González Napolitano, Buenos Aires

Institute of International Public Law and International Relations of Thessaloniki, Thessaloniki, Greece

Inter-American Court of Human Rights, San José

Inter-American Tropical Tuna Commission, La Jolla, California, United States

Inter-Parliamentary Union, Geneva, Switzerland

International Court of Justice, The Hague

International Criminal Tribunal for Rwanda, Arusha, United Republic of Tanzania

International Criminal Tribunal for the Former Yugoslavia, The Hague

International Maritime Organization, London

International Seabed Authority, Kingston

International Transport Workers Federation, London

International Whaling Commission, Cambridge, United Kingdom

Japan Branch of the International Law Association, University of Tokyo, Faculty of Law, Tokyo

Maurice Kengne Kamga, Institut universitaire de hautes études internationales, Geneva, Switzerland

Igor Karaman, Msida, Malta

Professor Barbara Kwiatkowska, The Netherlands Institute for the Law of the Sea, Utrecht, Netherlands

Professor Dr. Rainer Lagoni, Institut für Seerecht und Seehandelsrecht der Universität Hamburg, Hamburg, Germany

Landtag Mecklenburg-Vorpommern, Schwerin, Germany

Liaison Office of the International Labour Organization, New York, United States

Professor Heiki Lindpere, University of Tartu, Institute of Law, Tallinn

Dr. Ronán Long, Marine Law Centre, Martin Ryan Institute, National University of Ireland, Galway, Ireland

Mare, Die Zeitschrift der Meere, Hamburg, Germany

Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht, Heidelberg, Germany

Northwest Atlantic Fisheries Organization, Dartmouth, Canada

Alexander Proelß, Tübingen, Germany

Ambassador Shabtai Rosenne, Jerusalem, Israel

Cristian Santos, Biblioteca, Superior Tribunal de Justiça, Brasilia

Scandinavian Institute of Maritime Law, University of Oslo, Oslo

TRAFFIC International, Cambridge, United Kingdom of Great Britain and Northern Ireland

Walther-Schücking-Institut für Internationales Recht an der Universität Kiel, Kiel, Germany

World Food Programme, Rome

World Meteorological Organization, Geneva, Switzerland

Annex II

Information on staff
Status as at 31 December 2004

Professional and higher posts

Name	*Title*	*Country of nationality*	*Level of post*
Gautier, Philippe	Registrar	Belgium	ASG
Kim, Doo-young	Deputy Registrar	Republic of Korea	D-2
Slark, Garry M.	Chief of Administration	United Kingdom of Great Britain and Northern Ireland	P-5
Chérif, Lamine	Head of Conference and Linguistic Services	Tunisia	P-5
Schaffer, Ellen	Librarian	United States of America	P-4
Sodhi, Gurpreet S.	Head of Budget and Finance	United States of America	P-4
Savadogo, Louis	Legal Officer	Burkina Faso	P-4
Hinrichs, Ximena	Legal Officer	Chile	P-4
Vacant	Translator/Reviser (English)		P-4
Bowes, Elisabeth	Legal Officer	Australia	P-3
Sentabyo, Méthode	Translator (French)	Rwanda	P-3
Vacant	Information Technology Officer		P-3
Gaba Kpayedo, Kafui	Administrative Officer (Support/Building Management)	Togo	P-2
Suarez, Suzette	Associate Legal Officer	Philippines	P-2
Cummings, Philippa	Archivist	Canada	P-2
Vacant	Associate Administrative Officer (Contributions/Budget)		P-2

Total Professional and higher posts: 16

General Service posts

Name	*Title*	*Nationality*	*Level of post*
Prieto, Luis	Computer Systems Assistant	Spain	G-7
Kamps, Irene	Administrative Assistant (Procurement)	Germany	G-7
Vorbeck, Antje	Administrative Assistant (Personnel)	Germany	G-7
Pope, Julia	Press Assistant	United Kingdom of Great Britain and Northern Ireland	G-7
Bothe, Andreas	Building Coordinator	Germany	G-7
Egert, Anke	Publications/Personal Assistant (Registrar)	Germany	G-7
Ritter, Roman	Finance Assistant	Germany	G-6
Becker, Martine	Linguistic Assistant/Judiciary Support	France	G-6
Nas, Ellen	Personal Assistant (President)	Netherlands	G-6
Winkelmann, Jacqueline	Administrative Assistant (Contributions)	Germany	G-6
Albiez, Berit	Linguistic Assistant/Judiciary Support	Germany	G-6
Sadler, Gerardine	Administrative Assistant	Singapore	G-5
Bartlett, Emma	Personnel Assistant	United Kingdom of Great Britain and Northern Ireland	G-5
Hartmann-Vereshchak, Svitlana	Finance Assistant (Accounts Payable)	Ukraine	G-5
Duddek, Sven	Senior Security Officer/Building Superintendent	Germany	G-4
Roth, Elizabeth	Conference/Documentation Assistant	Kenya	G-4
Borchert, Anne-Charlotte	Personal Assistant (Deputy Registrar)	France	G-5
Drews, Svenja	Library Assistant	Germany	G-4
Marzahn, Inga	Receptionist	Germany	G-3
Ntinugwa, Chuks	Security Officer/Driver	Germany	G-3
Aziamble, Papagne	Security Officer/Driver	Togo	G-3

Total General Service posts: 21

Annex III

Information on interns, 2004

Abdessalem, Mouna	Tunisia	01/11/04-31/01/05
Afanasjava, Oksana	Latvia	09/02/04-29/03/04
Agayeya, Tamilla	Azerbaijan	01/01/04-31/03/04
Andranarisoa, Hoby	Madagascar	13/03/04-09/06/04
Assemboni, Alida	Togo	01/02/04-30/04/04
Boudass, Ghada	Morocco	02/08/04-30/09/04
Chakraborty, Anshuman	India	15/12/04-15/02/05
Chanthalangsy, Marina	France	16/08/04-15/10/04
Ekwere, Kingsley	Nigeria	02/08/04-30/09/04
Karaman, Igor	Ukraine	01/07/04-20/08/04
Kokaji, Lisa	Japan	01/02/04-31/03/04
Logan, Sam	United States of America	07/06/04-07/08/04
Ngala, Ngange Nfor	Cameroon	01/10/04-31/12/04
Ould Dedde Ould Hamady, Omar	Mauritania	01/11/04-31/01/05
Perreira, Maria Cristina	Cape Verde	27/09/04-14/12/04
Salama, Randa	Australia	01/06/04-13/08/04
Schneider, Tom	France	01/11/04-31/01/05
Sheehan, Anne	Australia	01/04/04-30/06/04
Sirgado Díaz, Emil	Cuba	04/10/04-31/12/04
Von Hoesslin, Karsten	Canada	05/07/04-05/08/04
Zhu, Huijian	China	01/07/04-20/09/04

Meeting of States Parties

Distr.: General
31 March 2005

Original: English

Fifteenth meeting
New York, 16-24 June 2005

Appointment of Auditor for financial years 2005-2008

1. Pursuant to regulation 12.1 of the Financial Regulations of the International Tribunal for the Law of the Sea:

> The Meeting of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors or an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed. The Tribunal may make proposals regarding the appointment of the Auditor.

2. In order to enable the Tribunal to consider the possibility of making proposals regarding the appointment of Auditor, the Registry sent at the beginning of 2005 a request for quotation (annex I) to five internationally recognized firms of auditors with offices in Germany: BDO Deutsche Warentreuhand, Aktiengesellschaft; Deloitte & Touche; KPMG; Ernst & Young; and PricewaterhouseCoopers. The terms of reference (annex II), which are similar to the terms of reference applied to audit reports for the financial periods 1999 to 2004, were also communicated to those firms. Considering that the Tribunal has no internal audit service, the request for quotation included a provision for an interim audit every two years, i.e., in 2005 and 2007.

3. Four quotations were received by the Registry, as follows:

Audit firm	*Total (including expenses, excluding VAT) 2005-2006*	*Total (including expenses, excluding VAT) 2007-2008*
BDO Deutsche Warentreuhand	€7 000	€7 000
Deloitte & Touche	€13 100	€13 800
Ernst & Young	Not submitted	
KPMG[a]	US$ 14 000	US$ 14 000
PricewaterhouseCoopers	€23 120	€23 900

[a] Estimated price does not include a provision for interim audits.

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4. The Registry evaluated the above quotations, taking into account technical ability to perform the audit in accordance with generally accepted common auditing standard, the interest of the Tribunal and the best value for money.

5. On that basis, the Registry selected the following three quotations, which may be considered as meeting the requirements of the Tribunal:

Audit firm	*Total (including expenses, excluding VAT) 2005-2006*	*Total (including expenses, excluding VAT) 2007-2008*
BDO Deutsche Warentreuhand	€7 000	€7 000
Deloitte & Touche	€13 100	€13 800
PricewaterhouseCoopers	€23 120	€23 900

6. The quotation from KPMG is not recommended since the price in the offer is only an estimate and does not include a provision for an interim audit.

7. The budgetary provision for the 2005-2006 audit totals €32,800 for the financial period (€16,400 provided for in 2005 and €16,400 provided for in 2006).

8. It may be noted that the following Auditors have been previously selected to conduct the audit of the financial statements of the Tribunal:

Financial periods	*Firm*	*Cost*
1996/1997	Arthur Andersen	US$ 13 000
1998	Arthur Andersen	US$ 13 000
1999	Arthur Andersen	US$ 13 000
2000	Arthur Andersen	US$ 13 000
2001	PricewaterhouseCoopers	US$ 13 100
2002	PricewaterhouseCoopers	US$ 13 400
2003	PricewaterhouseCoopers	€14 000
2004	Deloitte & Touche	€9 200

9. The Tribunal, at its Nineteenth Session, examined the quotations and the evaluation done by the Registry and decided to transmit this information to the Meeting of States Parties for its consideration in the event that the Meeting would decide to appoint as Auditor for the financial periods 2005-2006 and 2007-2008 an internationally recognized firm of auditors.

INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
TRIBUNAL INTERNATIONAL DU DROIT DE LA MER

SCOPE OF AUDIT

(a) whether the financial statements of the Tribunal present fairly in all material aspects, the financial situation of the International Tribunal for the Law of the Sea;

(b) the Meeting of States Parties, at its fourteenth Meeting (14 – 18 June 2004), by its decision on 16 June 2004 approved and appropriated an amount of €15,506,500 as the Budget for the International Tribunal for the Law of the Sea for the period 1 January 2005 to 31 December 2006 as set out in document SPLOS/117. Kindly review whether the expenses incurred during this financial period are in accordance with the appropriations made by the Meeting of States Parties;

(c) whether expenditures incurred have been appropriately authorized by the party designated for that purpose in the Rules of the Tribunal or the Financial Regulations;

(d) whether staff and persons being paid by the Tribunal have been recruited or engaged in the manner provided for in the Rules of the Tribunal or the Financial Regulations;

(e) whether goods and services have been procured in accordance with the procedure provided for in the Financial Regulations; and

(f) whether goods and services which have been procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal.

Annex II

Annex to the Financial Regulations

Additional terms of reference governing the audit of the International Tribunal for the Law of the Sea

1. The Auditor shall perform such audit of the accounts of the Tribunal, including all trust funds and special accounts, as it deems necessary in order to satisfy itself:

   (a) That the financial statements are in accord with the books and records of the Tribunal;

   (b) That the financial transactions reflected in the statements have been in accordance with these Regulations and the Financial Rules, the budgetary provisions and other applicable directives;

   (c) That the securities and moneys on deposit and on hand have been verified by certificates received direct from the Tribunal's depositaries or by actual count;

   (d) That the internal controls, including internal oversight, are adequate in the light of the extent of reliance placed thereupon.

2. The Auditor shall be the sole judge as to the acceptance in whole or in part of certifications and representations by the Registrar and may proceed to such detailed examination and verification as it chooses of all financial records, including those relating to supplies and equipment.

3. The Auditor and its staff shall have free access at all convenient times to all books, records and other documentation which are, in the opinion of the Auditor, necessary for the performance of the audit. Information which is classified as privileged and which the Registrar (or a designated senior official) agrees is required by the Auditor for the purposes of the audit and information classified as confidential shall be made available on application. The Auditor and its staff shall respect the privileged and confidential nature of any information so classified which has been made available and shall not make use of it except in direct connection with the performance of the audit. The Auditor may draw the attention of the Tribunal and the Meeting of States Parties to any denial of information classified as privileged which, in its opinion, was required for the purpose of the audit.

4. The Auditor shall have no power to disallow items in the accounts but shall draw the attention of the Registrar, for appropriate action, to any transaction for which it entertains doubt as to legality or propriety. Audit objections, to these or any other transactions, arising during the examination of the accounts shall be communicated immediately to the Registrar.

5. The Auditor (or such of its officers as it may designate) shall express and sign an opinion on the financial statements which shall read as follows:

   "We have examined the following appended financial statements, numbered ... to ..., properly identified, and relevant schedules of the International Tribunal for the Law of the Sea for the financial period ended 31 December .... Our examination included a general review of the accounting procedures and such tests of the accounting records and other supporting evidence as we considered necessary in the circumstances."

The opinion shall also state, as appropriate, whether:

(a) The financial statements present fairly the financial position as at the end of the period and the results of their operations for the period then ended;

(b) The financial statements were prepared in accordance with the stated accounting principles;

(c) The accounting principles were applied on a basis consistent with that of the preceding financial report;

(d) Transactions were in accordance with these Regulations and legislative authority.

6. The report of the Auditor on the financial operations of the Tribunal for the financial period shall be submitted to the Meeting of States Parties through the Tribunal. It shall indicate:

(a) The type and scope of the Auditor's examination;

(b) Matters affecting the completeness and accuracy of the accounts, including, where appropriate:

(i) Information necessary to the correct interpretation of the accounts;

(ii) Any amounts which ought to have been received but which have not been brought to account;

(iii) Any amounts for which a legal or contingent obligation exists and which have not been recorded or reflected in the financial statements;

(iv) Expenditures not properly substantiated;

(v) Whether proper books of accounts have been kept where in the presentation of statements there are deviations of a material nature from the generally accepted accounting principles applied on a consistent basis, these should be disclosed;

(c) Other matters which the Auditor considers should be brought to the notice of the Meeting of States Parties, such as:

(i) Cases of fraud or presumptive fraud;

(ii) Wasteful or improper expenditure of the Tribunal's money or other assets, notwithstanding that the accounting for the transaction may be correct;

(iii) Expenditure likely to commit the Tribunal to further outlay on a large scale;

(iv) Any defect in the general system or detailed regulations governing the control of receipts and disbursements or of supplies and equipment;

(v) Expenditure not in accordance with the intention of the Meeting of States Parties after making allowance for duly authorized transfers within the budget;

(vi) Expenditure in excess of appropriations as amended by duly authorized transfers within the budget;

(vii) Expenditure not in conformity with the authority which governs it;

(d) The accuracy or otherwise of the supplies and equipment records as determined by stock-taking and examination of the reports;

(e) If appropriate, transactions accounted for in a previous period concerning which further information has been obtained or transactions in a later period concerning which it seems desirable that the Meeting of States Parties should have early knowledge.

7. The Auditor may make such observations with respect to its findings resulting from the audit and such comments on the Registrar's financial report as it deems appropriate to the Meeting of States Parties, the Tribunal or the Registrar.

8. Whenever the scope of audit of the Auditor is restricted, or whenever it is unable to obtain sufficient evidence, it shall refer to the matter in its opinion and report, making clear in the report the reasons for its comments and the effect on the financial position and the financial transactions as recorded.

9. In no case shall the Auditor include criticism in its report without first affording the Registrar an adequate opportunity of explanation on the matter under observation.

10. The Auditor shall not be required to mention any matter referred to in the foregoing that, in its opinion, is insignificant in all respects.